

AMENDED IN ASSEMBLY MAY 1, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1096

Introduced by Assembly Member Harman

February 20, 2003

An act *to amend Section 3074 of the Civil Code, and to amend Section 22851.12 of the Vehicle Code, relating to vehicles.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1096, as amended, Harman. vehicles: lienholder.

Under existing law, whenever a vehicle has been removed to a garage under a peace officer's or a traffic employee's direction, and the keeper of the garage has mailed a specified notice or notices, the keeper of the garage has a lien dependent upon possession of the vehicle for his or her compensation for towage and storage costs. The lienholder may charge a fee for the lien-sale preparation not to exceed a certain amount based on the vehicle's value. However, this charge may not be made in the case of a vehicle redeemed prior to 72 hours from the initial storage.

This bill would ~~require the allowable lien-sale preparation charge to be equal to the actual expenses incurred, but not more than specified amounts that are based on the determined value of the vehicle. The bill would also prohibit charging the fee if the vehicle is redeemed prior to 5 3 business days, rather than 72 hours, from~~ *after* the date of the initial storage.

The bill would ~~prohibit an authorized fee or charge from attaching to the lien or from being paid until the lienholder provides documentation to the person redeeming the vehicle, demonstrating, as applicable, that (a) the lienholder has requested from the Department~~

~~of Motor Vehicles the names and addresses of all persons having an interest in the vehicle; (b) the lienholder has mailed lien sale notifications to all interested parties; and (c) the lienholder or the registration service agent has possession of the required lien processing documents~~ *make conforming changes in related provisions of existing law.*

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 3074 of the Civil Code is amended to*
2 *read:*

3 3074. The lienholder may charge a fee for lien sale
4 preparations, not to exceed seventy dollars (\$70), in the case of a
5 vehicle having a value determined to be four thousand dollars
6 (\$4,000) or less, and not to exceed one hundred dollars (\$100), in
7 the case of a vehicle having a value determined to be greater than
8 four thousand dollars (\$4,000), from any person who redeems the
9 vehicle prior to ~~its disposal or is paid through~~ *from the proceeds of*
10 ~~a lien sale pursuant to~~ *conducted under* this chapter. These charges
11 may commence and become part of the possessory lien when the
12 lienholder requests the names and addresses of all persons having
13 an interest in the vehicle from the Department of Motor Vehicles.
14 Not more than 50 percent of the allowable fee may be charged until
15 the lien sale notifications are mailed to all interested parties and the
16 lienholder or registration service agent has possession of the
17 required lien processing documents. This charge ~~shall~~ *may* not be
18 made in the case of ~~any~~ *a* vehicle redeemed prior to ~~72 hours from~~
19 *three business days after the date of the initial storage. Not more*
20 *than two business days after receiving a written request for*
21 *documentation supporting the charge from the person redeeming*
22 *the vehicle, the lienholder shall send the supporting*
23 *documentation to that person.*

24 SEC. 2. Section 22851.12 of the Vehicle Code is amended to
25 read:

26 ~~22851.12. (a) The lienholder may charge a fee equal to the~~
27 ~~actual expenses incurred for lien sale preparations, but not to~~

28 22851.12. *The lienholder may charge a fee for lien sale*
29 *preparations, not to exceed seventy dollars (\$70), in the case of a*

1 vehicle having a value determined to be four thousand dollars
2 (\$4,000) or less, and not to exceed one hundred dollars (\$100), in
3 the case of a vehicle having a value determined to be greater than
4 four thousand dollars (\$4,000), from any person who redeems the
5 vehicle prior to its disposal, or from the proceeds of a lien sale
6 conducted under this chapter. These charges may commence and
7 become part of the possessory lien when the lienholder requests the
8 names and addresses of all persons having an interest in the vehicle
9 from the department. Not more than 50 percent of the allowable
10 fee may be charged until the lien sale notifications are mailed to
11 all interested parties and the lienholder or the registration service
12 agent has possession of the required lien processing documents.
13 This charge may not be made in the case of ~~any~~ a vehicle redeemed
14 prior to three business days after the date of the initial storage. Not
15 more than two business days after receiving a written request for
16 documentation supporting the charge from the person redeeming
17 the vehicle, the lienholder shall send the *supporting*
18 documentation to that person.

19 ~~(b) The fee authorized under subdivision (a) does not attach to~~
20 ~~the lien and may not be paid until the lienholder provides~~
21 ~~documentation to the person redeeming the vehicle,~~
22 ~~demonstrating, as applicable, the following:~~

23 ~~(1) The lienholder has requested from the Department of Motor~~
24 ~~Vehicles the names and addresses of all persons having an interest~~
25 ~~in the vehicle.~~

26 ~~(2) The lienholder has mailed lien sale notifications to all~~
27 ~~interested parties.~~

28 ~~(3) The lienholder or the registration service agent has~~
29 ~~possession of the required lien processing documents.~~

30 ~~(c) The lienholder may not charge the fee authorized under~~
31 ~~subdivision (a) if the vehicle is redeemed prior to five business~~
32 ~~days from the date of the initial storage.~~

